

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS - MCALLEN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	DECLARATION OF TAKING
)	
vs.)	
)	
0.98 ACRES OF LAND, MORE OR LESS,)	CIVIL NO.
)	
SITUATE IN HIDALGO COUNTY, STATE OF TEXAS;)	
)	
AND PAMELA RIVAS, ET AL.,)	
)	
Defendants.)	
_____)	

I, Robert Janson, Acting Executive Director, Facilities Management and Engineering, Department of Homeland Security, U.S. Customs and Border Protection, under the authority delegated to me by the Act of Congress approved November 25, 2002, as Public Law 107-296, 116 Stat. 2311 and codified at 6 U.S.C. Sections 202, 251, 551, and 557, which transferred certain authorities of the Attorney General to the Secretary of Homeland Security; and by DHS Delegation No. 7010.3(II)(B), which delegated land acquisition authority from the Secretary of Homeland Security to the Commissioner of U.S. Customs and Border Protection; and by CBP Delegation 08-004, which delegated land acquisition authority to the Acting Executive Director, Facilities Management and Engineering, do hereby make the following declaration:

1. The property is hereby taken under and in accordance with the authorities set forth in Schedule "A" attached hereto and made a part hereof.

2. The public purpose for which said property is taken is set forth in Schedule "B" attached hereto and made a part hereof. The said land has been selected under my direction for acquisition by the United States for the above-referenced project in Hidalgo County, State of Texas.

3. A general description of the land being taken is set forth in Schedule "C" attached hereto and made a part hereof.

4. A plan showing the property being taken is shown on Schedule "D" attached hereto and made a part hereof.


5. The estate taken is described on Schedule "E" attached hereto and made a part hereof.

6. The sum estimated by the undersigned as just compensation for the land being taken is set forth in Schedule "F" attached hereto and made a part hereof. The undersigned is of the opinion that the ultimate award for said land probably will be within any limits prescribed by law to be paid therefor.

7. The names and addresses of known parties having or claiming an interest in said property are set forth in Schedule "G" attached hereto and made a part hereof.

8. The United States made best efforts to negotiate purchase of the property interest sought prior to filing this condemnation action.

IN WITNESS WHEREOF, the undersigned, Acting Executive Director, Facilities Management and Engineering, Department of Homeland Security, U.S. Customs and Border Protection, hereunto subscribes his name by direction of the Secretary of the Department of Homeland Security, this 27 day of June, 2008 in the City of Washington, District of Columbia.



Robert Janson

Acting Executive Director

Facilities Management and Engineering

Department of Homeland Security

U.S. Customs and Border Protection

SCHEDULE A

SCHEDULE "A"
AUTHORITY FOR THE TAKING

The property is taken under and in accordance with the Act of Congress approved on February 26, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and the Act of Congress approved October 4, 2006, as Public Law 109-295, Title II, 120 Stat. 1355, which appropriated the funds which shall be used for the taking.

SCHEDULE B

SCHEDULE "B"
PUBLIC PURPOSE

The public purpose for which said land is taken is to construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, and related structures designed to help secure the United States/Mexico border within the State of Texas.

SCHEDULE C

SCHEDULE "C"
LEGAL DESCRIPTION

FEE, EXCLUDING MINERALS

Hidalgo County, Texas

Tract: RGV-MCS-1004

Owner: Pamela Rivas, et al.

Acres: 0.41

BEING a certain tract of land containing 0.41 acres, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land approximately 60 feet in width and approximately 300 feet in length, which crosses the land of the subject owner, and contains 0.41 acres, more or less, located within the western one-third of the 2.61 acre parent tract, and as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No. 2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas.

This tract is further identified as Hidalgo County Appraisal District, Property ID. No. R221782.

Tract: RGV-MCS-1004

SCHEDULE "C" (Cont.)
LEGAL DESCRIPTION

PERPETUAL ROAD EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-1 Owner: Pamela Rivas, et al. Acres: 0.37

BEING a certain tract of land containing 0.37 of an acre, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land starting at the north edge of the right-of-way of a public road in the southeast corner of said block and running northwesterly, said strip being approximately 40 feet in width and approximately 399 feet in length, which crosses the land of the subject owner, and contains 0.37 of an acre, more or less, as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No.2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas

This tract is further identified as Hidalgo County Appraisal District, Property ID. No. R221782.

Tract: RGV-MCS-1004E-1

SCHEDULE "C" (Cont.)

LEGAL DESCRIPTION

TEMPORARY ACCESS EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-2 Owner: Pamela Rivas, et al. Acres: 0.10

BEING a certain tract of land containing 0.10 of an acre, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land starting at the north edge of the right-of-way of a public road in the southeast corner of said block and running northwesterly adjacent to the north side of the perpetual easement, said strip being approximately 10 feet in width and approximately 421 feet in length, which crosses the land of the subject owner, and contains 0.10 of an acre, more or less, as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No.2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas.

This tract is further identified as the Hidalgo County Appraisal District, Property ID No. R221782.

Tract: RGV-MCS-1004E-2

SCHEDULE "C" (Cont.)
LEGAL DESCRIPTION

TEMPORARY ACCESS EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-3 Owner: Pamela Rivas, et al. Acres: 0.09

BEING a certain tract of land containing 0.09 of an acre, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land starting at the north edge of the right-of-way of a public road in the southeast corner of said block and running northwesterly adjacent to the south side of the perpetual easement, said strip being approximately 10 feet in width and approximately 363 feet in length, which crosses the land of the subject owner, and contains 0.09 of an acre, more or less, as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No.2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas.

This tract is further identified as the Hidalgo County Appraisal District, Property ID No. R221782.

Tract: RGV-MCS-1004E-3

SCHEDULE "C" (Cont.)

LEGAL DESCRIPTION

TEMPORARY ACCESS EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-4 Owner: Pamela Rivas, et al. Acres: 0.01

BEING a certain tract of land containing 0.01 acres, more or less, of 2.61 acres, more or less, situated in Block 101 of the Los Ebanos Village Subdivision, of the partition of Porciones 38, 39, and 40, Hidalgo County, Texas, being more particularly described as follows:

BEING a strip of land in the southeast corner of said block and running adjacent to the east line of said block, said strip being approximately 10 feet in width and approximately 36 feet in length, which crosses the land of the subject owner, and contains 0.01 acres, more or less, as shown on the attached map.

IT IS THE INTENT of the foregoing description to include a part of the same land as that in a Deed of Gift from Ines G. Rivas, Sr. a/k/a/ Inez G. Rivas and Oralia S. Rivas to Pamela Rivas, dated March 23, 2006, and filed for record on March 24, 2006, in Volume 7, Page 13210, as Instrument No.2006-1594667, in the Deed Records of Hidalgo County, Texas, according to and being the same land as that shown on map recorded in Volume 13, Page 47 of the Map Records of Hidalgo County, Texas.

This tract is further identified as the Hidalgo County Appraisal District, Property ID No. R221782.

Tract: RGV-MCS-1004E-4

SCHEDULE D

SCHEDULE "D"
FEE, EXCLUDING MINERALS



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004
Owner: Pamela Rivas, et al.
Acreage: 0.41
Hidalgo County, TX
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed
Records of Hidalgo County, Texas

SCHEDULE "D" (Cont.)
PERPETUAL ROAD EASEMENT



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-1
Owner: Pamela Rivas, et al.
Acreage: 0.37
Hidalgo County, TX
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed
Records of Hidalgo County, Texas

SCHEDULE "D" (Cont.)
TEMPORARY ACCESS EASEMENT



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-2
Owner: Pamela Rivas, et al.
Acreage: 0.10
Hidalgo County, TX
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed
Records of Hidalgo County, Texas

SCHEDULE "D" (Cont.)
TEMPORARY ACCESS EASEMENT



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-3
Owner: Pamela Rivas, et al.
Acreage: 0.09
Hidalgo County, TX
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed
Records of Hidalgo County, Texas

SCHEDULE "D" (Cont.)
TEMPORARY ACCESS EASEMENT



LAND TO BE CONDEMNED

Tract: RGV-MCS-1004E-4
Owner: Pamela Rivas, et al.
Acreage: 0.01
Hidalgo County, TX
Deed Reference: Volume 7, Page 13210, as Instrument No. 2006-1594667, Deed
Records of Hidalgo County, Texas

SCHEDULE E

SCHEDULE "E"
ESTATE TAKEN

FEE, EXCLUDING MINERALS

Hidalgo County, Texas

Tract: RGV-MCS-1004

Owner: Pamela Rivas, et al.

Acres: 0.41

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding all interests in minerals and the rights appurtenant thereto; reserving the following rights and interests in the property being acquired by the United States as described herein: a perpetual right-of-way on both sides of the Federal border barrier for the purpose of gaining access to condemnee's land on the other side of the border barrier; and, the United States grants to the condemnee a perpetual right-of-way across other lands of the United States along and on both sides of the border barrier to reach and utilize the nearest border barrier gate for the purpose of accessing condemnee's lands on the other side. The purpose of this provision is to clarify that the United States is not prohibiting access to condemnee's remaining lands between the border barrier and the Rio Grande River, but is providing a permanent right-of-way to condemnee and all landowners similarly situated to access the nearest border barrier gate which allows entry to the other side of the border barrier from which unacquired land can be accessed.

SCHEDULE "E" (Cont.)
ESTATE TAKEN

PERPETUAL ROAD EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-1 Owner: Pamela Rivas, et al. Acres: 0.37

A perpetual and assignable easement and right-of-way in, over and across the land described in Schedule "C" for the location, construction, operation, maintenance, alteration and replacement of a road and appurtenances thereto; together with the right to trim or remove any vegetative or structural obstacles that interfere with the right-of-way; subject to minerals and rights appurtenant thereto, and to existing easements for public roads, highways, public utilities, railroads and pipelines; reserving, however, to the owners, their successors and assigns, the right to use the surface of such land as access to their adjoining land or for any other use consistent with its use as a road.

SCHEDULE "E" (Cont.)
ESTATE TAKEN

TEMPORARY ACCESS EASEMENT

Hidalgo County, Texas

Tract: RGV-MCS-1004E-2, E-3, and E-4

Owner: Pamela Rivas, et al.

Acres: 0.20

A temporary and assignable easement and right-of-way in, over and across the land described in Schedule "C" for a period not to exceed 24 months, beginning with date possession of the land is granted to the United States, for the location, construction, operation, maintenance, alteration and replacement of roads and appurtenances thereto; together with the right to trim or remove any vegetative or structural obstacles that interfere with the right-of-way; subject to minerals and rights appurtenant thereto, and to existing easements for public roads, highways, public utilities, railroads and pipelines; reserving, however, to the owners, their successors and assigns, the right to use the surface of such land as access to their adjoining land or for any other use consistent with its use as a road.

SCHEDULE F

SCHEDULE "F"
ESTIMATE OF JUST COMPENSATION

The sum estimated as just compensation for the land being taken is FIVE THOUSAND FIVE HUNDRED DOLLARS AND NO/100 (\$5,500.00), to be deposited herewith in the registry of said Court for the use and benefit of the persons entitled thereto.

SCHEDULE G

SCHEDULE "G"
NAMES AND ADDRESSES OF INTERESTED PARTIES:

Pamela Rivas
4719 N. Gwin Rd.
Edinburg, TX 78541

Armando Barrera, Jr., RTA
Hidalgo County Tax Assessor-Collector
Administration Building
2800 South U.S. Highway 281
Edinburg, TX 78539